

REMARKS/ARGUMENTS

The Examiner is thanked for the Official Action dated September 30, 2005. This amendment and request for reconsideration is intended to be fully responsive thereto.

Claims 11-14 and 16-17 have been amended to correct minor inconsistencies.

Claims 1-14 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 has been amended to overcome the Examiner's rejections. No new matter has been added.

Claims 1-8, 10-13 and 15-17 were rejected under 35 U.S.C. 102(b) as being anticipated by Hougham (USPN 5,310,102). The applicant respectfully disagrees.

Regarding claim 1: First, the Examiner erroneously interpreted the belt strap 69 of Hougham as a base strap and the leg strap 73 disposed below the belt strap 69, as a headrest strap. The examiner achieved this by turning the sleeve assembly 10 of Hougham upside-down. Obviously, the sleeve assembly 10 cannot function in this position, thus the Examiner's interpretation is in error. In fact, the belt strap 69 should be interpreted as the headrest strap, while the leg strap 73 as the base strap.

Second, the Examiner alleges that the sleeve assembly 10 of Hougham is capable to support a portable electronic device on the back of an automobile seat. Contrary to the Examiner's allegations, the frame 11 of Hougham is designed for sleeves 17 of vegetable (see column 2, lines 36-42). Clearly, the frame 11 designed for sleeves 17 of vegetable cannot be used for "accessibly retaining" the fragile portable electronic device. Moreover, the leg strap 73 is too small to be adapted for substantially encircling a lower portion of the

backrest portion of the seat.

Thus, Applicant respectfully submits that the applied document, *i.e.*, the sleeve assembly of Hougham, does not meet this standard of anticipation.

Claims 2-14 introduce additional limitations and further define the present invention over Hougham.

Claims 2, 4, 5 and 12-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hougham in view of Krulik (US 6,092,574). The applicant respectfully disagrees.

As argued above regarding the patentability of claim 1, Hougham fails to disclose the essential structural element of the present invention as recited in claim 1 of the present invention. Moreover, the Examiner concedes that Hougham does not teach the headrest strap connected to two discrete spaced apart points in the upper portion of the housing, and cites Krulik that discloses a carrying case teaching a shoulder strap for carrying the case by a person. Therefore, the sleeve assembly 10 of Hougham adapted to be worn by encircling the mounting straps around the waist and the leg of the person cannot be combined with the carrying case with the shoulder strap.

Furthermore, even if Hougham and Krulik could be combined, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (see MPEP 2143.01). *In Re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). There is no suggestion to support the Examiner's assertion.

Therefore, the rejection of claims 2, 4, 5 and 12-14 under 35 U.S.C. 103(a) is improper.

Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Hougham in view of Rassias (US 6,149,042). The applicant respectfully disagrees.

As argued above regarding the patentability of claim 1, Hougham fails to disclose the essential structural element of the present invention as recited in claim 1 of the present invention. Moreover, the prior art fails to provide adequate motivation to combine the references as cited by the Examiner. Therefore, the rejection of claim 8 under 35 U.S.C. 103(a) is improper.

Claims 1-6, 10, 11, 15, 16 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Meritt (US 6,216,927) in view of Ellsworth (US 5,226,576), and further in view of Smith (US 5,465,889) and Harada (US 6,662,985). The applicant respectfully disagrees. However, in order to expedite the prosecution of the present application claims 1 and 15 has been amended to specify that the base strap encircles a portion of the backrest portion of the automobile seat. No new matter has been added. The antecedent basis for these amendments could be found in page 3, lines 8-9 of the present application.

The Examiner concedes that Meritt fails to disclose the base strap connected via a crossover strap between a lower portion of the seat proximate the base portion and a single point of a lower portion of the housing, and also both the base and crossover straps having adjustment mechanisms.

Ellsworth also fails to disclose the base strap encircling a portion of the backrest portion of the automobile seat. In fact, the attachment means 22 are cords (not a strap) extending out from the back bottom corners which may be tied or hooked to the undercarriage of the seat (see column 2, lines 64-66 of Ellsworth).

Therefore, even if the combination of and modification of Meritt and Ellsworth

suggested by the Examiner could be made, the resulting article still would lack the base strap encircling a portion of the backrest portion of the automobile seat.

The Examiner then cites the purse assembly of Smith adapted to be worn by a person, and alleges that when turned upside-down resembles the structure of Meritt in view of Ellsworth. However, the prior art fails to provide adequate motivation to combine the references as cited by the Examiner, i.e. to combine the mounting devices for securing containers to a vehicle seat and the purse assembly of Smith adapted to be worn by a person, not attached to a vehicle seat. Moreover, one of ordinary skill in the art would not use the purse of Smith in the upside-down position as not capable of holding an electronic or any other device in this position.

The Examiner also cites the holder of Harada similar to the device of Smith and adapted to be worn by a person. Again, the prior art fails to provide adequate suggestion or motivation to combine the references as cited by the Examiner.

In any case, even if the combination of and modification of Meritt, Ellsworth, Smith and Harada suggested by the Examiner could be made, the resulting article still would lack the base strap encircling a portion of the backrest portion of the automobile seat.

Moreover, the Examiner's assertion that these four references may be modified to achieve the limitations of the present invention would clearly result from **hindsight reconstruction**, which is not permitted.

Hence, the rejection of claims 1-6, 10, 11, 15, 16 and 17 under 35 U.S.C. 103(a) is improper.

Claims 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied in paragraph 9 above and in view of Rassias. The applicant respectfully disagrees.

As argued above, the prior art as applied in paragraph 9 of the office action of September 30, 2005, fails to provide adequate suggestion or motivation to combine the references as cited by the Examiner. Moreover, even if the combination of and modification of Meritt, Ellsworth, Smith and Harada suggested by the Examiner could be made, the resulting article still would lack the base strap encircling a portion of the backrest portion of the automobile seat. Furthermore, the leg holster of Rassias fails to disclose the housing for retaining the electronic device. Instead, leg holster of Rassias has a flat holster plate 2 to which the firearm locking assembly 11 is mounted.

The Examiner is clearly impermissibly reconstructing applicant's invention by combining five separate references without proper motivation or desirability of the resultant combination. Even if so combined, the five references fail to embody the claimed invention.

Claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied in paragraph 9 above and in view of Martin (5,437,367). The applicant respectfully disagrees.

As argued above, the prior art as applied in paragraph 9 of the office action of September 30, 2005, fails to provide adequate suggestion or motivation to combine the references as cited by the Examiner. Moreover, even if the combination of and modification of Meritt, Ellsworth, Smith and Harada suggested by the Examiner could be made, the resulting article still would lack the base strap encircling a portion of the backrest portion of the automobile seat. Martin discloses a suitcase-type carrying case on wheels. However, the

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Examiner fails to prove as to why one having ordinary skill in the art would have found the claimed invention to be obvious in light of the teachings of the prior art. Clearly, the prior art fails to suggest the desirability of the combination.

Claims 12-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied in paragraph 9 above and in view of Krulik. The applicant respectfully disagrees.

As argued above, the prior art as applied in paragraph 9 of the office action of September 30, 2005, fails to provide adequate suggestion or motivation to combine the references as cited by the Examiner. Moreover, even if the combination of and modification of Meritt, Ellsworth, Smith and Harada suggested by the Examiner could be made, the resulting article still would lack the base strap encircling a portion of the backrest portion of the automobile seat. Krulik discloses a carrying case teaching a shoulder strap for carrying the case by a person.

Therefore, the prior art fails to provide adequate motivation to combine the references as cited by the Examiner, i.e. to combine the mounting devices for securing containers to a vehicle seat and the carrying case with the shoulder strap for carrying the case by a person of Krulik adapted to be worn by a person, not attached to a vehicle seat. The Examiner is clearly impermissibly reconstructing applicant's invention by combining five separate references without proper motivation or desirability of the resultant combination. Even if so combined, the five references fail to embody the claimed invention.

Thus, the rejection of claim 12-14 under 35 U.S.C. 103(a) is improper.

New claims 18 and 19 have been added.

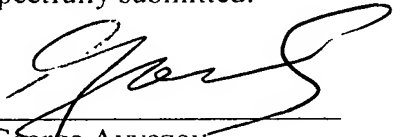
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It is respectfully submitted that claims 1-19 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited.

Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

Respectfully submitted:

By: _____

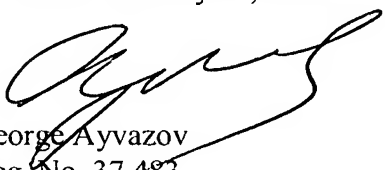

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On Date: February 28, 2008


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